

Remarks

I. Status of the Claims and Formal Matters

Claims 1-2 and 5-20 were pending in this application. Claims 3-4 were previously cancelled. Applicant previously elected to continue the prosecution of claims 1-2, 5-8, 11-12 and 14 pursuant to the examiner's restriction requirement in the Office Action mailed June 20, 2005. Claims 1-2, 5-8 and 12 are amended. Claims 21-25 are new. Upon entry of these amendments, claims 1-2 and 5-24 are pending with claims 1-2, 5-8, 11-12, 14 and 21-25 under active consideration. Applicants respectfully request entry of the amendments and remarks made herein into the file history of the present application.

Claim 1 is amended in response to the restriction requirement to recite an "An isolated nucleic acid comprising the sequence of SEQ ID NO: 14," support for which may be found at SEQ ID NO: 14 and claim 1 as originally filed.

Claim 2 is amended to recite an "An isolated RNA of 18 to 24 nucleotides encoded by the nucleic acid of claim 1," support for which may be found in claim 1 as originally filed.

Claim 5 is amended to correct dependency and antecedent basis.

Claim 6 is amended to correct dependency and antecedent basis. Claim 6 is also amended to recite an RNA that "is at least 63% complementary to a binding site sequence of 18 to 24 nucleotides of a human gene and wherein the binding site sequence," support for which may be found in claim 1 as originally filed.

Claim 7 is amended to correct antecedent basis.

Claim 8 is amended to correct antecedent basis.

Claim 12 is amended to correct antecedent basis.

New claim 21 recites an isolated RNA of about 50 to 77 nucleotides encoded by the nucleic acid of claim 1, support for which may be found in claim 1 as originally filed and SEQ ID NO: 14.

New claim 22 recites an isolated RNA of about 22 nucleotides encoded by the nucleic acid of claim 1, support for which may be found at paragraph [0067].

New claim 23 recites a nucleic acid complementary to the nucleic acid of claim 1, support for which may be found at paragraph [0034].

New claim 24 recites a nucleic acid complementary to the nucleic acid of claim 2, support for which may be found at paragraph [0034].

New claim 25 recites a nucleic acid complementary to the nucleic acid of claim 4, support for which may be found at paragraph [0034].

II. Election

At page 2 of the Office Action, the Examiner requires restriction to a single nucleic acid sequence under MPEP 803.04. Applicant elects with traverse SEQ ID NO: 14 for further prosecution.

The Examiner is permitted under 35 USC 121 to issue a restriction requirement between independent and distinct inventions. As noted by the Examiner at page of the Office Action, MPEP 803.04 states that nucleotide sequences are presumed to represent independent and distinct inventions absent evidence to the contrary. Nevertheless, the Director has partially waived the requirements of 37 CFR 1.141 *et seq.* to permit a reasonable number of nucleotide sequences to be claimed in a single application. *See Examination of Patent Applications Containing Nucleotide Sequences*, 1192 O.G. 68 (November 19, 1996). It has been determined that normally **ten** sequences constitute a reasonable number for examination purposes. *See* MPEP 803.04.

The Examiner has failed to demonstrate that the claimed sequences are an exceptional case necessitating that the number of sequences to be selected be less than ten. At page 2 of the Office Action, the Examiner merely alleges that the multitude of sequences submitted for examination has resulted in an undue search burden if more than one sequence is elected. Applicant respectfully submits that the grounds cited by the Examiner are not sufficient and that the Examiner is impermissibly disregarding the waiver of 37 CFR 1.141 *et seq.* Accordingly, Applicant respectfully requests reconsideration of the restriction requirement and the opportunity to elect ten sequences for further prosecution.

Conclusion

Applicant respectfully submits that the instant application is in good and proper order for allowance and early notification to this effect is solicited. If, in the opinion of the Examiner, a

telephone conference would expedite prosecution of the instant application, the Examiner is encouraged to call the undersigned at the number listed below.

Respectfully submitted,

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